



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

CONSERVATION COMMISSION

MEETING MINUTES

March 24th, 2011

Beginning at 7:30 p.m.

City Hall, Room 209

Meeting called to order at 7:35 p.m.

Setti D. Warren
Mayor

MEMBERS PRESENT: I. Wallach, (Chair), S. Lunin, J. Hepburn, D. Green, N. Richardson,
and J. Sender (Alternate)

MEMBERS ABSENT: D. Dickson, R. Matthews

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Candace Havens
Director
Planning & Development
Department

Anne Phelps
Sr. Environmental Planner

Commissioners

Ira Wallach, Chair
Susan Lunin, Vice Chair
Judy Hepburn, Secretary
Norm Richardson
Roger Matthews
Dan Green
Doug Dickson
Jane Sender, Alternate

1000 Commonwealth Av. City Hall Ponds NOI – Proposal to dredge 39,000 sf of City Hall Ponds, with temporary construction of access-way and de-watering within the 100 ft buffer zone to bank

Report: A MEPA filing has been made, and a site visit was conducted with the MEPA analyst and the applicant. The ponds were created prior to the WPA, and receive inflow from Hammond Brook, Cold Springs Brook, and an intermittent stream flowing past the library. The bank (10.54) is stone, placed when the ponds were built, but the land just above the bank has a ~natural growth of shrubs, trees and vines that provide nesting and feeding areas for birds, and cover for other wildlife in the area. The ponds have been dredged at intervals since they were constructed. Culvert clean-out, and the dredging might qualify as a limited project (10.53(3)(k)) – please check reference to see what you think (It does not appear to be based on the size of the project, but whether it qualifies as ‘maintenance’, is not an enlargement/expansion of existing structure, and satisfies conditions under 10.53(3)(l)) (and see 10.53(4)). The work will remove a large amount of emergent vegetation and some bank vegetation (for access), which may **decrease** water quality. The vegetation (and sediment) absorb pollutants such as heavy metals, N & P, and partly anchors sediments; it also provides habitat complexity for aquatic invertebrates and birds (please see 10.56 – land under water body). However, removal of the vegetation, with the excess sediment, will provide more storage space for storm water and better flows with higher oxygen content. Removal of the sediment in the ponds will prevent it from being transported downstream. Since the accumulation of sediment is undoubtedly mostly from human activities, planner recommends approval of project with following conditions: 1) no use of hay bales (instead use 24” filter tubes filled w/compost or other approved by Planner), 2) minimize footprint of access-way to reduce destruction of grass – it will be difficult to re-stabilize w/the slope, number of geese present, and the amount of water from wet sediments, 3) consider doing the project in summer dry months (mid-July-mid-Sep) to provide time before winter to re-stabilize lawn area with seed, 4) replant the edge/bank with shrubs and trees and mulch within 2 wks after dredging to help filter run-off from grass (which accumulates lots of dog and goose waste, 5) as work begins in third pond, build (or leave in place) upstream coffer dams, in order to slow flow from heavy rainfall, 6) use filter-fabric as lining for sump areas from which stream flow is pumped to by-pass work areas, 7) site manager should designate erosion and sediment control manager with authority to stop work to correct deficiencies, supply 24-hr contact info to Environmental Planner, and contact conservation w/in 24 hrs of any failure of the erosion and sediment control, 8) no re-fuelling w/in 100 ft of bank,

1000 Commonwealth Ave.
Newton, MA 02459
T 617/796-1120
F 617/796-1134

9) may need a goose exclusion fence or sod to re-vegetate lawn area – more detailed plan, anyway.

Meeting: Maria Rose, Engineering Department, Tom Jenkins, Steven Riberdy, Jennifer Burke, the latter all from GZA, presented the project. The ponds were last cleaned about 19 years ago. This is a maintenance dredging project and will have an Operations and Maintenance Plan (new plans submitted at meeting titled Sediment Removal and Maintenance of City Hall Ponds, dated 3-8-2011, revised 3-23-2011). The ponds were created by the Olmsteads. The applicant believes the dredging will cause temporary impacts to land and water, and said pond #1 should be drained and dredged more often to reduce frequency of impact to other ponds. Work will proceed from upstream to downstream. Proponents discussed moving time schedule up to do work in summer instead of fall to help facilitate restoration of site before winter; it may be hard to get all the necessary permits in time to do this. The estimated time for the project is 3 months. The lawn area will be restored with sod. The Chair asked whether the applicant has any problem implementing the Env. Planner's nine recommended conditions. The applicant said they had been incorporated into the revised plan. Env. Planner doubts the proposal meets the requirements to protect the interests (prevention of pollution, protection of wildlife habitat) and recommends the commission approve it as a limited project. **Motion by D. Green to approve OOC for work as a limited project, with 9 conditions (above) and Sr. Planner, can at her discretion, revise conditions. Second by S. Lunin. Vote: All in favor. Motion passed.**

483 Dedham St. Charles River Country Club NOI – Proposal to re-grade the 15th Fairway to re-direct run-off, partly in riverfront and partly in buffer zone; temporary access road is proposed through bordering vegetated wetland

Report: Site visit conducted, and cannot confirm wetland delineation, since area is not flagged on the ground. No plant or soil logs for area where work proposed. We are scheduling a new site visit with resource areas flagged. I am told that the tracked excavator is too wide for bridge with walls – path of excavator could be aerated after work completed to address compression. Monoculture of native shrubs is not recommended, and a mix of shrubs should be required. A maintenance plan (to weed out saplings, and trim to maintain height) could be part of an on-going condition to maintain plantings in perpetuity.

Meeting: Sr. Planner reported that applicant has asked to continue until April 28 meeting.

170 Suffolk Rd. RDA- Minor foundation work and re-grading in the 100 ft buffer zone

Report: GIS shows lot is partly in buffer zone to stream draining to Houghton Ponds. Site visit indicates no part of the work proposed is within 100 ft of bank and I estimate it is beyond the 100 ft buffer of bordering vegetated wetland. However, structures (porch, walkway) are in side setback, so lawn, surrounded by chain link fence, extends onto conservation property (into Houghton Garden) ~ 10 ft on west side. Owner says previous owner showed him a letter from the City that the trespass is allowed. There is no file on this property, and no copy of letter available.

Meeting: Kenneth Lyons and Anne Lyons, owners, and Nancy Sadecki, architect, were present for the project. They said there will be a minimal amount of re-grading of the front yard area around the portico. There should be no impact to wetlands. Discussion of trespass issue: Owner has found correspondence (Meeting Agenda, Thursday, September 11, 1986, for the Newton Conservation Commission) which the Env. Planner distributed at the meeting - with discussion of the trespass issue from 1986. Owner said there is additional correspondence - a letter that was written by someone in the Law Department acknowledging the trespass, and stating no action would be taken. He cannot find the letter. Chair says the commission has a public trust to protect city-owned conservation land. There is nothing in the documents that the situation was intended to continue into perpetuity. The Chair would like to know on what basis the commission allowed the use of city land. If it was because of the pool, it should only continue as long as the pool stays there, for example. **Motion by D. Green to issue a negative determination for proposed work. Second by S. Lunin. Vote: all in favor. Motion passed.** The commission decided the encroachment issue will stay on the agenda in the discussion section. Chair suggested owner make a public records request of the Law Department.

275 Islington Rd. RDA –Minor foundation work in the 200 ft riverfront to the Charles R.

Report: The project was presented to Sr. Planner for a building permit sign-off. Env. Planner advised, if the project could be kept out of the riverfront area, no filing would be necessary. When it was decided the work would overlap into the riverfront area, owner filed– it is an alteration of the riverfront area, however small. Recommend a negative determination #2 (in a resource area but will not alter the resource area).

Meeting: Denise Chicoine (owner) presented the project. She said the back yard is bowl-shaped. **Motion by D. Green to issue a negative determination #2. Second by S. Lunin. Vote: All in favor. Motion passed.**



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

Violations (new and updates):

Report: Atty. Alan Schlesinger, representing Bullfinch Group, called to ask how to satisfy EO. Recommend, if any site has not made an attempt to satisfy amended conditions for EOs for improper snow removal by this meeting, the commission should amend again, to set deadlines for submission so this does not drag out over months.

193 Oak St. Village Condos EO – EO ratified and amended

Meeting: Env. Planner said there is nothing to discuss right now.

320-322 Needham St. EO –EO ratified and amended

Meeting: Alan Schlesinger, representing Bullfinch Group, was present, and submitted a letter (dated March 21, 2011, signed by Robert A. Schlager), that denies dumping snow onto the site or into the river. Mr. Schlesinger said they understand they cannot dump snow in the river – it would be a violation of former Order of Conditions. Because of exceptional winter, snow pushed onto the bank, and some might have fallen in the river. MetroWest Engineering prepared submission (Riverbank Restoration & Snow Storage Plan, dated March 22, 2011 – which Mr. Schlesinger submitted at meeting) for bank restoration. J. Lunin asked who is responsible for property if not Mr. Schlesinger's client. Mr. Wallach asked how to prevent it in future. Mr. Schlesinger provided site plan that he showed to commission, that designates two snow storage areas (with instructions to contractors), and boulders placed to keep anyone from going onto bank to dump snow. J. Hepburn: Contractor should have notified owner about excess snow, before Planner came along and saw it. Env. Planner asked about snow disposal off site. Mr. Schlesinger said contractor does not know where snow was taken. Mr. Schlesinger says he thinks his client was entitled to dump snow anyway. Env. Planner says DEP guidelines do not allow dumping of plowed snow (without a permit), only clean snow. Mr. Wallace asked about Atty. Schlesinger's mention of a previous Order.

Tom Guidi, attorney for the Trust that owns 25-27 Christina St. said he had brought a copy of the previous Order for the Commission (and Env. Planner brought a Determination of Applicability) for the properties, both of which have conditions regarding proper disposal of snow on the properties (read aloud by I. Wallach). Following discussion, the commission asks owners to show the commission the contract with the snow contractor to verify there is wording that contractor is responsible to dispose of snow in legal manner. The commission also asks that the contract make reference to the special condition of prior Order for snow disposal, and supply a copy of the contract to the commission for its records. Norm – restoration plan just submitted is not acceptable. Relying on re-sprouting of damaged trees on the bank is not enough and sand should be removed from bank. Plan to replace or restore topsoil and do some plantings. Plan to loam and seed and mulch. Commission will send comments to Mr. Schlesinger to forward to Metro West to revise plan, after Planner reviews newly submitted documents.

25-27 Christina St. EO – EO ratified and amended

Meeting: Tom Guidi, Atty., and Valerie Reed, Vice-President of Colliers (owner) were present. Commission asks for same provisions for this contract as for 320 Needham St. (above). Not sure when new contract will be signed. Env. Planner asked if can do Addendum to contract. Snow temporarily removed to end of parking lot, but trucked off within 24 -48 hrs because they need the parking spaces. Owner will also have catchbasins checked and cleaned and repaired if necessary (he thinks no maintenance since installed). The commission requested a letter to tell it the CB maintenance has been done.

311 Albemarle (added late)

Meeting: Peter Sachs, architect, and Tara Furlong, owner, were present. The project was approved by the commission in January, subject to approval of a revised mitigation plan (with more plants) by the Env. Planner. The mitigation plan was to (partially) compensate for an increase in the size of the (rebuilt) house. The revised mitigation plan dated (revised) March 7, 2011, submitted, is very different from the plan presented to the commission in January, and was not approved by the Env. Planner. Applicant contacted Planning department, and the Env. Planner has asked the commission to review the submission. The approved plan showed a small sidewalk, turning right immediately off the front steps and going to the driveway. The revision has a much larger pea-stone

walkway, spaced farther from the house, and going both to the driveway and to the opposite side of the house. The commission thinks that this effectively reduces the size of the mitigation area. The mitigation plantings are much more ordered and do not provide complexity of habitat nor adequate cover for wildlife (especially birds). It was mentioned that there are consultants who are paid to create mitigation plans. The Commission asked that Env. Planner summarize and forward their comments for incorporation into a revised mitigation plan. Revised plan reduces size of porch. Surveyor worked with owner to come up with revised plan. I. Wallach suggests going back to original plan, adding plants and having a wildlife/landscape consultant submit a summary of how it meets the requirements for a mitigation area with enhanced wildlife value. Env. Planner will summarize comments to forward to applicant.

Certificates of Compliance:

46 Kingswood Rd. – Completed and recommend approve COC

Meeting: Commission members signed COC approved at last meeting.

21-23 Cross St. –Needs site visit & remove non-native from mitigation area

Meeting: Mr. DeSantis present for the owner and said he has removed all the Rose of Sharon, but there is one non-native, a bamboo, planted in area. He said the bamboo is a sort of memorial to his father who died just after the bamboo was planted and asked to keep it. He will remove it if it becomes invasive. **Motion by D. Green to issue Certificate of Compliance. Second by S. Lunin. Vote: All in favor. Motion passed.**

100 Boulder Rd – Hay bales not removed from flood zone

Meeting: No action taken.

36 Hyde Av. – Needs another site visit

Report: Plants not flagged, so cannot count and verify – does not look like as many plants as listed. The dying white pine and 1-2 junipers should be replaced, and any other plants from planting list that were not installed or which did not survive. Applicant's representative, EcoTec, said that "invasives would be removed." Found what appear to be Japanese knotweed canes in mitigation area. Old radiators discarded on bank not removed. Recommend not ready for COC.

Meeting: No action taken.

365-381 Elliot St. -Needs site visit

Meeting: No action taken.

Beacon St. rear & Beaconwood Rd. -Certified Copy of COC requested (original lost and not recorded) –needs Chair's signature

Meeting: Certified Copy signed by Chair.

77 Florence St. - Needs as-built plan and site visit

Meeting: No action taken.

76 Hyde Av. - Not ready for COC

Report: Long expired OOC w/special condition not met, and a number of discrepancies between approved plan and as-built plan, including retaining wall built in 2005 in flood zone not on plan and after OOC expired. Packet has my list and Engineering comments.

Meeting: No action taken.

Discussion:

Management Plan – Updated list of Management Plan documents (previously distributed, in this packet, or emailed), and attached documents. Some files, including the Excel file on invasives is being emailed – I cannot print them on an 8 ½ x 11 " page; others are in the packet and emailed for your files.

Meeting: N. Richardson brought in printed copies of excel sheets for control of Multiflora Rose and for Buckthorns (will be put in Management Plan file) that I could not print. The next meeting of the committee will be on Monday, April 24th, at 46 Glen Avenue.



CITY OF NEWTON, MASSACHUSETTS

CONSERVATION COMMISSION

Hammond Pond Boardwalk proposal-PowerPoint slide presentation (also on DCR web site)

Meeting: The Environmental Planner, J. Sender, and D. Green attended a public meeting sponsored by Department of Conservation and Recreation at Newton City Hall to describe a proposal to put a boardwalk or other structures in or on the bank of Hammond Pond and to increase accessibility to the pond. The commission discussed briefly whether its members could comment on this projects as individual, Newton residents, since the commission will be in a regulatory position at some point in the process of the stated goals. I. Wallach volunteered to contact the new Director of Department of Conservation and Recreation, to advise that, in order to gain a permit under the WPA, the project should be designed to meet the (9) interests to be protected under the Act to the maximum extent possible.

Distribution of plans for Packet– Norm: Should Env. Planner ask applicants for 10 copies of plans and the rest electronically or pdf?

Meeting: Did not discuss.

Announcements & General Business:

February 24th, 2011 Meeting Minutes for approval

Meeting: Motion by S. Lunin to accept minutes. Second by D. Green. Vote: All in favor. Motion passed.

Management Plan – Set new meeting date?

Meeting: A meeting of Monday, April 24th is proposed, and D. Green offered his office building as site (46 Glen Avenue). Time to be determined.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner